

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Gregory V. Serio, Superintendent of Insurance  
of the State of New York, as Rehabilitator of  
FRONTIER INSURANCE COMPANY, and as  
Assignee of PLATINUM INDEMNITY, LTD.,

Plaintiff,

-against-

DWIGHT HALVORSON INSURANCE  
SERVICES, INC. d/b/a/ F.S.I.M. INSURANCE  
SERVICES and FOOD SERVICE INSURANCE  
MANAGERS, INC.,

Defendants.

04 CV 3361 (KMK)

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that, upon the annexed declarations of Nicholas J. Puleio and Andrew McComb, and the exhibits attached thereto, the memorandum of law submitted herewith, and the accompanying Local Rule 56.1 Statement, plaintiff Gregory V. Serio, Superintendent of Insurance of the State of New York, as Rehabilitator of Frontier Insurance Company and Assignee of Platinum Indemnity, Ltd., shall move this Court, before the Honorable Kenneth M. Karas, on a date and at a time to be fixed by the Court, seeking partial summary judgment pursuant to Rule 56(a) of the Federal Rules of Civil Procedure on Count IV of the Complaint and entry of judgment against defendant Food Service Insurance Managers, Inc. ("FSIM") in the amount of \$322,515.00, plus interest.

PLEASE TAKE FURTHER NOTICE that FSIM shall serve its opposition papers so as to be received by the Superintendent's counsel by the close of business on December 2, 2005; and,

PLEASE TAKE FURTHER NOTICE that the Superintendent shall serve his  
reply papers, if any, so as to be received by FSIM's counsel by the close of business on  
December 9, 2005.

Dated: New York, New York  
November 11, 2005

ENTWISTLE & CAPPUCCI LLP  
280 Park Avenue, 26th Floor West  
New York, New York 10017  
(212) 894-7200

By: 

WILLIAM S. GYVES (WG 2770)

MICHAEL A. MCDONOUGH (MM 5712)

Attorneys for Plaintiff

**CERTIFICATE OF SERVICE**

I, Josephine Ricca, hereby certify that on November 11, 2005, I caused a copy of the attached Notice of Motion, Notice Pursuant to Federal Rule of Civil Procedure 44.1, Local Rule 56.1 Statement in Support of Plaintiff's Motion for Partial Summary Judgment, Memorandum of Law in Support of Partial Summary Judgment and Declarations of Nicholas J. Puleio and Andrew McComb and attached exhibits thereto to be served via hand delivery upon counsel for defendants as follows:

Lorienton N.A. Palmer, Esq.  
Schindel, Farman & Lipsius LLP  
14 Penn Plaza, Suite 500  
New York, New York 10122

  
JOSEPHINE RICCA